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August 22, 2014

**VIA ECF & FACSIMILE**

Hon. Laura Taylor Swain  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

RE: *Harvey H. Jay, M.D., v. Spectrum Brands Holdings, Inc., et al*  
No.: 13-cv-8137 (LTS) (DCF)  
Claim Terms for Markman Hearing

Dear Judge Swain:

In accordance with Your Honor's Order, dated July 25, 2014, [Dkt. 36], the parties hereby jointly submit their selection of thirty (30) terms to be considered and construed by the Court in connection with the Markman Hearing in the above referenced matter, scheduled for October 22, 2014:

**Plaintiff's Selected Claim Terms:**

1. "Temporarily"
2. "Predetermined"
3. "Total Energy"
4. "Projecting Hair (Fibers)"

The parties hereby stipulate that this term, and grammatical forms thereof, should be construed synonymously wherever it appears in the asserted claims, whether or not the parenthesized word is present.

5. "Protruding Hair (Fibers)"

The parties hereby stipulate that this term, and grammatical forms thereof, should be construed synonymously wherever it appears in the asserted claims, whether or not the parenthesized word is present.

6. **(“Growth of Hair” or “Hair Growth”) (“through” or “along” or “at”) “a skin surface”**

The parties hereby stipulate that this term, and grammatical forms thereof, should be construed synonymously wherever it appears in the asserted claims, such term including either of the first parenthesized phrases, with the exception that each of the subsequent parenthesized prepositions should be given its respective ordinary meaning.

7. **“Prevent Hair Reappearance”**

8. **“Prior to (a visible) Reappearance of Hairs on a Skin Surface”**

The parties hereby stipulate that this term, and grammatical forms thereof, should be construed synonymously wherever it appears in the asserted claims, whether or not the parenthesized word is present.

9. **“Removal of” (“Projecting Hair” or “Projecting Hair Fibers” or “Protruding Hair Fibers”) “From a Skin Surface”**

The parties hereby stipulate that this term, and grammatical forms thereof, should be construed synonymously wherever it appears in the asserted claims, such term including either of the parenthesized phrases, each of which phrases should be given its respective ordinary meaning.

10. **“Absorption of Light ... Resulting (in)” (“Temporary Removal of Hair From” or “Temporary Retardation of Hair Growth Along”) a Skin Surface”**

11. **“Maintain a Skin Surface Temporarily Free of Projecting Hair Fibers”**

12. **(“Direct Light Pulses Toward” or “Apply Light Pulses To” or “Irradiate”) “a Skin Surface”**

13. **“Hair Removal Treatment”**

**Defendants’ Selected Claim Terms:**

14. **“Temporarily Preventing Hair Reappearance”**

15. **“Using said Device to Temporarily Remove Hair from said Skin Surface”**

16. **“To Temporarily Prevent a Growth of Hair through said Skin Surface”**
17. **“For the Temporary Removal of Hair”**
18. **“Irradiating the Skin Surface in a First Treatment Session to Prevent Hair Reappearance; and Thereafter and Prior to a Reappearance of Hair Fibers along said Skin Surface Irradiating the Skin Surface in a Second Treatment Session to Prevent Hair Reappearance”**
19. **“To Delay a Growth of Hair through said Skin Surface”**
20. **“Generating a Predetermined Number of Pulses of Light”**
21. **“Said Pulses Having ... a Total Energy all Predetermined”**
22. **“Directing said Pulses of Light Towards a Skin Surface”**
23. **“Applying said Pulses of Light to a Skin Surface”**
24. **“By Virtue of an Absorption of the Light of said Pulses by said Endogenous Chromophores in the Hair of said Skin Surface, Effectuating Removal of Projecting Hair Fibers from Skin Surface”**
25. **“Prior to a Visible Reappearance of Hairs on said Skin Surface, again Generating Pulses of Light and Directing the Pulses Towards said Skin Surface”**

**Joint Selected Claim Terms:**

The parties hereby stipulate that each of the following five (5) terms, and grammatical forms thereof, should be construed synonymously wherever they appear in the asserted claims, whether or not any, or which of the parenthesized word(s) are present:

26. **(“Retard” or “Slow” or “Diminish Rate of” or “diminution” of) (“Hair Growth” or “Growth of Hair” or “Growth Rate of Hair”)**
27. **“By Virtue of” (“Directing ... Light” or “Absorption of ... Light”) “... Effectuating Removal of Projecting Hair Fibers From a Skin Surface”**
28. **“By Virtue of ... Absorption of Light ... by Hair Fibers Below a Skin Surface” (“at Least Temporarily Retarding Hair Growth” or “Severing or Damaging the Hair Fibers”)**
29. **“Delay Appearance of Hair on a Skin Surface”**

**30. “Sever or Destroy Hair Fibers Below a Skin Surface.”**

Respectfully submitted,

Dated: August 22, 2014

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cc: All counsel (via ECF)